



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

JRE;jdh

Docket No: 8259-98

9 June 2000



Dear [REDACTED]

A three-member panel of the Board, sitting in executive session, considered your application and recommended that your naval record be corrected as set forth in the attached report dated 14 March 2000. In accordance with current regulations, the Assistant Secretary of the Navy for Manpower and Reserve Affairs conducted an independent review of the Board's proceedings and by his memorandum of 25 May 2000 disapproved the panel's recommended action. A copy of the Assistant Secretary's memorandum is also attached.

You are advised that reconsideration of your case will be granted only upon the presentation of new and material evidence not previously considered by the Board and then, only upon the recommendation of the Board and approval by the Assistant Secretary .

It is regretted that a more favorable reply cannot be made.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JRE
Docket No: 8259-98
14 March 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: FORMER [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Psych ltr 6520 0506;5-0783, 6 Oct 99
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected to show that he was permanently retired by reason of physical disability, vice discharged by reason of unsuitability due to a personality disorder.
2. The Board, consisting of Ms. [REDACTED] and [REDACTED] and Mr. [REDACTED], reviewed Petitioner's allegations of error and injustice on 10 February 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.
3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:
 - a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.
 - b. Enclosure (1) was filed in a timely manner.
 - c. Petitioner enlisted in the Marine Corps on 5 December 1966. He was credited with participation in sixteen combat operations in Vietnam, where he served primarily as an infantryman. He was wounded on three occasions and received three Purple Hearts. He returned to the United States from Vietnam on 29 April 1968. He was admitted to the sick list on 9 September 1968 for evaluation of "suicidal risk and psychosis". According to the report of a medical board dated 4 December 1968, during his service in Vietnam, Petitioner was tense, diaphoretic, startable, insomniac, and he had frequent nightmares in which he relived his combat experiences. Upon his return home, he was tense, sad, withdrawn and curt.

He was fearful of people and preoccupied with thoughts of killing himself and others, and the nightmares of his combat experiences persisted. He reported that he had grown up in fear of his father, and expressed his anxiety and hostility through nightmares, short temper, and seclusive behavior. He socialized little prior to his enlistment, except for a few select friends, and preferred to be alone in thought. While hospitalized in 1968, his nightmares diminished, but he remained tense and diaphoretic following group therapy meetings, during which he reexperienced his combat activities. He was able to socialize with others eventually and was no longer fearful of people, but did desire to be discharged from the Marine Corps. He was given diagnoses of Emotionally Unstable Personality, chronic, moderate, existed prior to enlistment, manifested by hedonism, irresponsibility, labile emotionality, puerile judgment, and poorly channelled hostility; and Combat Stress Reaction, acute, severe, transitory, in remission, manifested by emotional withdrawal, anxiety, insomnia, nightmares reproducing the traumatic events, and preoccupation with killing in response to memories of combat experiences. Precipitating stress: severe, combat duty in Vietnam and multiple wounds in combat; predisposition: moderate (emotionally unstable personality; impairment: none, fit for full duty. The medical board recommended that he be discharged from the Marine Corps by reason of unsuitability based on the emotionally unstable personality. He was discharged in accordance with the approved findings and recommendation of the medical board on 12 December 1968.

d. On 16 March 1970, Petitioner submitted a claim to the Veterans Administration (VA) for disability compensation for headaches, battle stress, nosebleeds and residuals of shell fragment wounds (SFW) of the neck, shoulder and left hand. On 5 August 1970, the VA awarded him 0% ratings for the SFW scars. The headaches, battle stress, and nosebleeds were classified as "not ratable entities". Service connection was denied for the emotionally unstable personality because that condition is considered a "constitutional or developmental abnormality - not a disability under the law". He was awarded a 0% rating for post traumatic stress disorder effective from 19 February 1985. As the condition became more severe over the succeeding years, the rating was increased. The condition is currently rated as 100% disabling. On 16 March 1993, a VA physician evaluated Petitioner, and concluded that he was suffering from post traumatic stress disorder at the time of his discharge from the Marine Corps in 1968.

e. In correspondence attached as enclosure (2), the Board was advised by designees of the Specialty Advisor for Psychiatry to the Chief, Bureau of Medicine and Surgery, in effect, that although there is ample evidence supporting Petitioner's current diagnosis of post traumatic stress disorder, there is inadequate evidence to support that diagnosis at the time of his discharge from the Marine Corps. In addition, there is ample documentation supporting a diagnosis of a personality disorder at the time and during later evaluations. The available records indicate that the combat stress reaction he experienced in 1968 was in remission at the time of his discharge, and transitory in nature. The advisors noted that multiple VA practitioners have given Petitioner a diagnosis of post traumatic stress disorder since 1985. They also noted, however, that when he was evaluated on 31 July 1985, it was reported that "he appeared to be exaggerating symptomatology, possibly for some secondary gain." The VA physician who examined him on 12 June 1989 felt that he was malingering. On 18 June 1991, Petitioner told a VA physician that he had come to the 12 June 1989 interview

intoxicated on alcohol and pills, having followed the advice of a friend who told him to "get yourself crazy before you go." He was given diagnoses of Acute Situational Disorder, Alcohol Abuse, and Passive-Aggressive Personality disorder on 18 July 1991. The advisors noted that although personality disorders and post traumatic stress disorder are separate processes, they are not mutually exclusive, and the presence of a personality disorder likely predisposed him to developing post traumatic stress disorder. In their opinion, many symptoms of post traumatic stress disorder were present before Petitioner enlisted, and these symptoms persisted and intensified over many years, and eventually led to his receiving a total disability rating from the VA. The documentation provided suggests that there were many etiological factors to Petitioner's condition, including some that pre-dated his enlistment, others he experienced during his enlistment, as well as one he experienced after he was discharged from the Marine Corps, i.e., the death of his son in a motor vehicle accident. In the advisors's opinion, there was insufficient evidence to justify a retroactive change of diagnosis.

CONCLUSION:

Upon review and consideration of all the evidence of record and notwithstanding the comments contained in enclosures (2), the Board concludes that there is sufficient evidence to warrant the correction of Petitioner's record to show that he was unfit for duty because of post traumatic stress disorder at the time of his discharge from the Marine Corps. In this regard, it concurs with the opinion of the VA psychiatrist who evaluated Petitioner on 16 March 1993, and concluded that he was suffering from post traumatic stress disorder in 1968. The Board noted that diagnostic criteria for post traumatic stress disorder were not established by the American Psychiatric Association for more than ten years after Petitioner's was discharged from the Marine Corps. The Board believes it is likely that the Navy psychiatrists who evaluated Petitioner in 1968 did not recognize the significance of the symptoms he was exhibiting at that time, and probably mis-characterized the internalization of his symptoms as the remission of the combat stress reaction.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.


RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was permanently retired by reason of physical disability effective 12 December 1968, with a 30% rating under VA code 9400 for anxiety reaction.

b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

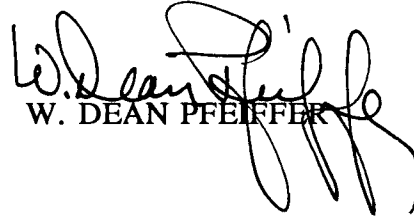
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



JAMES R. EXNICIOS
Acting Recorder

5. The foregoing report of the Board is submitted for your review and action.



W. DEAN PFEIFFER

Reviewed and approved:



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
1000 NAVY PENTAGON
WASHINGTON, D.C. 20350-1000

MAY 25 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION
OF NAVAL RECORDS

Subj: REVIEW OF NAVAL RECORD OF FORMER [REDACTED]

The Board for Correction of Naval Records concluded that Petitioner was unfit for duty by reason of physical disability because of post traumatic stress disorder when he was discharged from the Marine Corps on 12 December 1968. Having concluded that an injustice had occurred, the Board recommended that Petitioner's naval record be corrected to show that he was permanently retired by reason of physical disability effective 12 December 1968, with a disability rating of 30%, vice discharged because of a personality disorder. Having carefully reviewed and considered the facts and circumstances of this case, I conclude that no error or injustice occurred in this case.

I am unable to approve the recommendation of the Board because I substantially concur with the findings and recommendations of the psychiatric advisors which are contained in enclosure (3) to the proceedings of the Board. Although there is ample evidence that Petitioner suffers from post traumatic stress disorder at the present time, the available evidence is insufficient to demonstrate that he suffered from that condition in 1968, or to show that the diagnosis of a personality disorder is erroneous. Petitioner was not diagnosed as suffering from post traumatic stress disorder until 1985, and that the condition was considered mild and ratable at 0% at that time. In addition, I note that the several Veterans Administration (VA) psychiatrists have determined that Petitioner suffers from a personality disorder. Although Petitioner may have been suffering from some symptoms characteristic of post traumatic stress disorder when discharged from the Marine Corps in 1968, he was not unfit for duty by reason of physical disability. I believe that he suffered from a personality disorder which made him unsuitable for further service, and that he was properly discharged on that basis.

Based on the foregoing, I disapprove the Board's findings of error and injustice and its recommendation for corrective action.

[REDACTED]
Deputy Assistant Secretary of the Navy
(Personnel Programs)